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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,829	07/15/2003	Jason A. Trachewsky	BP 2481.3	7190
51472 7590 10/18/2007 GARLICK HARRISON & MARKISON P.O. BOX 160727 AUSTIN, TX 78716-0727			EXAMINER CAI, WAYNE HUU	
			ART UNIT 2617	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/619,829

Applicant(s)

TRACHEWSKY, JASON A.

Examiner

Wayne Cai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 15-26 in the reply filed on July 30, 2007 is acknowledged.

Drawings

The drawings were received on July 17, 2003. These drawings are acceptable.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 22-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Independent claim 22, line 2, recites a **baseband processor** for receiving, processing and generating digital data. The Applicant then recites on line 5 of claim 22 that "... , and for producing corresponding digital data to **the first baseband processor**" , and on line 8 of claim 22 that "... , and for producing corresponding digital data to **the**

second baseband processor". Clearly, the claimed features are not enabling because the Applicant firstly claims a WLAN device comprises only one baseband processor, and then claims that the digital data is generated from two different baseband processors (i.e., the first baseband processor on line 5, and the second baseband processor on line 8 of claim 22). Thus, correction and/or explanation is suggested in response to this office action.

Dependent claims 23-26 are also rejected at least for the same reasons set forth above.

Claims 22-26 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. "The first baseband processor interface 104" and "the second baseband processor interface" are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). It appears to the Examiner that the Applicant intends to claim the features of claim 22 as disclosed and/or shown in Figure 4B. This Figure 4B illustrates a WLAN device includes two radios 102 (first radio 102 block at the top, and second radio block 102 at the bottom), each of which is coupled to a baseband processor interface 104 (first baseband processor interface 104 at the top, and second baseband processor interface 104 at the bottom) through which radios 102 communicate with a baseband processor 106 (Note: only 1 baseband processor 106 is shown in figure 4B) through radio interfaces 108 (first radio interface 108 at the top, and second radio interface 108 at the bottom). However, the first and

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second baseband processor interfaces are not recited within claim 22. Rather, the Applicant recites the first and second baseband processor within this claim. Thus, in response to this office action, the Examiner respectfully suggests the Applicant either to point-out pages and lines for the support of this claim and/or to correct this issue as necessary.

Therefore, for the purpose of examination on the merits, the Examiner would interpret "the first baseband processor" and "the second baseband processor" as recited on line 5, and line 8 of claim 22 as a first baseband processor interface, and second baseband processor interface, respectively.

Dependent claims 23-26 are also rejected at least for the same reasons set forth above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15, 16, 18-23, 25, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Monin et al. (hereinafter "Monin", US 2002/0197984).

Regarding claim 15, Monin discloses a Wireless Local Area Network (WLAN) device, comprising:

a first baseband processor interface for receiving processing and generating digital data (fig. 2, AP1, block 40);

a first radio for receiving the digital data and for transmitting RF signals in a first frequency band and for receiving RF signals in the first frequency band and for producing corresponding digital data to the first baseband processor interface (fig. 2, AP1, block 42);

a second baseband processor interface for receiving, processing and generating digital data (fig. 2, AP2, block 40); and

a second radio for receiving the digital data and for transmitting RF signals in a second frequency band and for receiving RF signals in the second frequency band and for producing corresponding digital data to the second baseband processor interface (fig. 2, AP2, block 42).

Regarding claims 16 and 23, Monin discloses all limitations recited within claims as described above. Monin also discloses logic for determining a quality indicator, wherein the quality indicator for a selected channel considers a channel power and interference power for the selected channel (paragraphs 0066, 0068).

Regarding claims 18 and 25, Monin discloses all limitations recited within claims as described above. Monin also discloses logic for selecting a communication protocol for operation from a plurality of available communication protocols (paragraph 0071).

Regarding claims 19 and 26, Monin discloses all limitations recited within claims as described above. Monin also discloses logic for selecting at least two frequency bands and communicating over at least one channel in each of the two frequency bands (paragraph 0071, fig. 3).

Regarding claim 20, Monin discloses all limitations recited within claims as described above. It is also inherent to include first and second radio interfaces and first and second baseband processors wherein the first baseband processor communicates with the first baseband processor interface by way of the first radio interface and the second baseband processor communicates with the second baseband processor interface by way of the second radio interface.

Regarding claim 21, Monin discloses all limitations recited within claims as described above. Monin also discloses including first and second radio interfaces wherein the first baseband processor communicates with the first baseband processor interface by way of the first radio interface and with the second baseband processor interface by way of the second radio interface (see fig. 2).

Regarding claim 22, Monin discloses a Wireless Local Area Network (WLAN) device, comprising:

a baseband processor for receiving processing and generating digital data (element 34 and 50 and its descriptions);

a first radio for receiving the digital data and for transmitting RF signals in a first frequency band and for receiving RF signals in the first frequency band and for

producing corresponding digital data to a first baseband processor interface (fig. 3, element 42, radio module 1);

a second radio for receiving the digital data and for transmitting RF signals in a first frequency band and for receiving RF signals in the first frequency band and for producing corresponding digital data to a second baseband processor interface (fig. 3, element 42, radio module 2); and

wherein the baseband processor generates digital data for transmission from one of the first radio, the second radio or both (fig. 3, element 28 and its descriptions).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monin et al. (hereinafter "Monin", US 2002/0197984).

Regarding claims 17 and 24, Monin discloses all limitations recited within claims as described above, but does not expressly disclose wherein the interference power includes in-channel interference and adjacent channel interference.

However, the claimed features are obvious and/or well known in the art because one skilled in the art would select a channel that would reduce a chance of having in-

channel interference and adjacent channel interference in order to avoid or prevent crosstalk and increase signal quality. Thus, the claimed features are not novel.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Cai whose telephone number is (571) 272-7798. The examiner can normally be reached on Monday - Thursday from 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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